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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAR 10 2014

at 2 o'clock and 35 min. P.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

In the Matter Of

TYLER J, by and through his parents CHERYL ANN  
and KEVIN J.,

Plaintiffs,

vs.

DEPARTMENT OF EDUCATION, STATE OF HAWAII  
and School for Examining Essential Questions of  
Sustainability ("SEEQS") a Public Charter School, State of  
Hawaii

Defendants.

CIVIL 14 00121 DKW KSC  
(Other Civil Action)

COMPLAINT; EXHIBIT "A" AND  
SUMMONS

**COMPLAINT**

TYLER J., by and through his parents, CHERYL ANN and KEVIN J, allege as follows:

1. This action is a complaint presented pursuant to 20 U.S.C. Section 1415 (i)(2).
2. TYLER J., CHERYL ANN and KEVIN J., are persons aggrieved by the Administrative "Legend, Findings of Fact, Conclusions of Law, and Decision" rendered in administrative proceedings conducted pursuant to the requirements of 20 U.S.C. Section 1415(f) and Chapter 60 of the Hawaii Administrative Rules ("HAR"). A copy of this Decision is attached hereto as Exhibit "A".
3. This court has jurisdiction over this case as under 28 U.S.C. Section 1343 and 1331.
4. The events giving rise to this action occurred in the State of Hawaii, and all parties are subject to the jurisdiction of this Court. Therefore, venue is appropriate.

### **PARTIES**

5. Plaintiffs, CHERYL ANN and KEVIN J. are residents of the State of Hawaii. They are the legal parents and guardians of TYLER J.
6. TYLER J., is a resident of the State of Hawaii
7. TYLER J., has been classified as a child with a learning disability, diagnosed with autism spectrum disorder (Asperger's Syndrome) and other physical challenges. At all times relevant to this action, he has been certified as eligible for special education in the State of Hawaii. TYLER is entitled to a free and appropriate education ("FAPE") under the IDEA and under Section 504 of the Rehabilitation Act of 1973, 20 U.S.C. Section 794.
8. Defendants, DEPARTMENT OF EDUCATION ("DOE"), State of Hawaii was the Respondent in the administrative proceedings described below. The DOE and SEEQS, are the departments and agencies of the State of Hawaii responsible for compliance with the IDEA, 20 U.S.C. Section 1401 et. seq., thus we ask recognition of both as Defendants.

### **FACTS**

9. Pursuant to 20 U.S.C. Section 1415(i)(2), any party aggrieved by the Decision filed February 14, 2014, pursuant to 20 U.S.C. Section 1415(f) shall have the right to bring a civil action with respect to the Complaint presented pursuant to Section 1415. This action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount of controversy.
10. Plaintiffs are aggrieved by the decision issued on February 14, 2014 in DOE-SY201314-030 which is a final order within the ambit of 20 U.S.C. Section 1415 (i)(2), and seek the review and reversal of the Decision.
11. The Decision is erroneous as a matter of law and unsupported by the sufficient evidence.
12. The evidence presented at the hearing established that TYLER was denied a free and appropriate education both substantively and procedurally because the DEFENDANTS did not provide him with an individualized education program that addressed his unique needs.
13. The evidence presented at hearing does not support the Hearings Officer's findings of fact and order.

WHEREFORE, Plaintiffs pray that this court;

1. Assume jurisdiction over this case;
2. Receive the records of the administrative proceedings described above;
3. Reverse the Hearings Officer's Decision filed February 14, 2014;

4. Order that Defendant denied Plaintiffs a FAPE and award the remedy requested and any other appropriate relief;
5. Grant such relief as continued private placement at Variety School, for ending of SY 2013-14 and the complete multiple SY 2014-15 & 15-16, Summer School, and After-school Care. The request multiple school years is due to the SY2013-14 concluding; regression and emotional distress caused by TYLER's denial of an appropriate FAPE, IEP execution and because extensive bullying without reprieve has left him continuously under duress and fear. We also ask reimbursement for all technology and support as directed on TYLER's IEP that was denied and all therapies and medical support needed for TYLER going forward.
6. Enter an award of the fees and costs incurred in both the Federal level and Administrative level.

Dated: Honolulu, Hawaii, March 10, 2014

  
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Cheryl Ann Jong, Parent, Pro Se  
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Kevin Jong, Parent, Pro Se